

# Staff Report 54

## **LESSEE:**

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Pacific Gas and Electric Company

## **PROPOSED ACTION:**

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Issuance of a Renewal and Amendment of Gas Storage Lease 2839 (subsurface only)

## **AREA, LAND TYPE, AND LOCATION:**

State-owned sovereign land located approximately 10 miles west of the city of Stockton, San Joaquin County. The tide and submerged land are part of the McDonald Island gas storage field and are located within the Southwest quarter and Southeast quarter of Section 24; the Northwest quarter, Northeast quarter, and Southeast quarter of Section 25; and the Northeast quarter of Section 36, Township 2 North, Range 4 East; and the Northwest quarter and Southwest quarter of Section 30 and Section 31, Township 2 North, Range 5 East, Mount Diablo Meridian (See Exhibits A and B attached).

## **AUTHORIZED USE:**

Gas storage lease to inject gas into a subsurface storage zone during periods of low demand and withdraw from storage during periods of peak demand.

## **TERM:**

The lease renewal is for a 15-year term, effective on March 1, 2022, through February 28, 2037.

## **CONSIDERATION:**

- **Annual Rent:** The annual rent is calculated based on the State's ownership share of the storage reservoir (9.6 percent). The rent for March 1, 2022, through February 28, 2023, is \$601,309.64 and will increase by 5 percent each year.
- **Injection fee:** The State's ownership share of the storage reservoir is 9.6 percent. Starting March 1, 2022, through February 28, 2023, the incremental gas fee

factor (Injection fee) will be \$ 0.17974 per thousand cubic feet of gas injected and will increase by 5 percent each year.

- **Annual Consideration:** The Lessee shall pay to the State the higher of (1) the annual rent or (2) the injection fee on the total volume of gas injected into the storage reservoir during the lease year (March 1 through February 28).

#### **SPECIFIC LEASE PROVISIONS:**

- The current bond amount is \$50,000.
- Pursuant to the provisions of paragraphs 4, 11, or 12 of the Lease, the Lessee has the right for a period of 5 years after any such termination to withdraw all gas injected by the Lessee from the storage reservoir.

#### **BACKGROUND:**

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On February 27, 1962, the Commission issued Lease No. 2839 to the Lessee ([Item 29, February 27, 1962](#)), for the storage of natural gas in an underground storage reservoir within the McDonald Island gas field. The storage zone, which is approximately 1 mile deep, is called the McDonald Island Sand. The lease was issued for an initial term of 15 years beginning March 1, 1962, with an option to renew for two successive periods of 15 years each. The first lease renewal period was from March 1, 1977, to March 1, 1992. The second lease renewal period was from March 1, 1992, to March 1, 2007. On December 16, 2002, the Commission consented to the second renewal and an amendment of the lease, which granted the Lessee the right to renew the lease for an additional 15 years, starting March 1, 2007 ([Item 61, December 16, 2002](#)).

Due to statutes limiting leases to no more than 49 years, a replacement lease was authorized in 2009 for a new 15-year term from March 1, 2007, to February 28, 2022, with a right to renew the lease for two more consecutive terms of 15 years each, for a total of 45 years ([Item 35, January 29, 2009](#)). This current authorization is for an additional 15-year renewal, commencing March 1, 2022, and an amendment to the lease, as described below.

#### **PROPOSED LEASE AMENDMENT**

- **New bond amount and periodic bond adequacy review:** Lessee to maintain a \$780,000 bond, which is adequate to cover the full plug and abandonment of the four wells located on State lands.
  - Staff added a provision to allow for a 5-year bond assessment review during the term of the lease.

- **Right to withdraw stored gas:** The existing lease provides that upon lease termination, pursuant to the provisions of paragraphs 4, 11, or 12, the Lessee has the right for 5 years after any such termination to withdraw all gas injected and all native gas from the storage reservoir. The proposed amendment replaces this provision with a right to renew the Lease for a period of 4 years for the sole and limited purpose of withdrawal from the storage reservoir of all gas injected by the Lessee and all native gas.
  - Even if such renewal right is exercised after termination of the final 15-year renewal term, such renewal period will not exceed the 49-year maximum lease period under the California Code of Regulations, title 2, section 2004.
- **Lease management fee:** Staff also proposes a \$5,000 annual lease management fee from the Lessee, with a 3 percent yearly increase, to cover staff costs associated with lease administration.

## STAFF ANALYSIS AND RECOMMENDATION:

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### Authority:

Authority: Public Resources Code sections 6005, 6216, 6301, 6505.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

### PUBLIC TRUST AND STATE'S BEST INTERESTS:

The Lessee requests the renewal of the lease for the operation, maintenance, and use of the McDonald Island gas storage field. For these existing operations, the California Public Utilities Commission (CPUC) issued a certificate of public convenience and necessity authorizing operation and maintenance of this gas storage field. As part of CPUC's oversight and the rate setting process, the Lessee provides the CPUC evidence to demonstrate the need for the gas storage field and the costs to operate and maintain the field. The California Department of Conservation, Geologic Energy Management Division (CalGEM), which has the regulatory responsibility over energy resource wells, also issued a letter of approval for the ongoing operations of the gas storage field. Staff has considered the above facts and believes continued operation of this gas storage field, which provides natural gas to utilities and the public during periods of high demand, pursuant to the Lease terms as recommended to be amended, is in the State's best interest. Ultimate decommissioning of the gas storage field and removal of gas would require approval from both the CPUC and CalGEM prior to such operations commencing.

Although the Commission does not have jurisdiction over the surface facilities, staff conducts biannual field inspections. Although Covid-19 caused a delay in the inspections, previous inspections have shown that the well sites and facilities are well maintained. The gas storage operation is also inspected annually by the CPUC and CalGEM. Additionally, CalGEM prepares an annual report called the Periodic Field Review summarizing their inspection findings. In addition, the Lessee runs an annual material balance and inventory verification to check the integrity of the gas storage field.

The Lessee agreed to the recommended amendments, including an increase in the bond to an amount adequate for plug and abandonment of four wells located on State Lands (an increase from \$50,000 to \$780,000), a 5-year bond assessment clause, revisions to the renewal terms to fully comply with the California Code of Regulations, and an annual lease management fee.

The effective management and enforcement of the Commission's leases serves the Public Trust by holding the Lessee accountable for all aspects of the lease, to ensure that lessees remain responsible operators, comply with lease provisions, and prevent environmental harm. The proposed lease renewal and amendment will help ensure lease compliance which is essential to ensure that Public Trust lands are used responsibly, equitably, and in the best interests of the State. Staff believes that the gas storage lease will not substantially interfere with Public Trust needs and values of the lease area during the term of the lease.

### **CLIMATE CHANGE:**

Climate change impacts, including sea level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located under Whiskey Slough (draining into the San Joaquin River), in a tidally influenced site vulnerable to flooding at current sea levels and at higher risk of flood exposure given projected scenarios of sea level rise. The natural gas reservoir is approximately 1 mile deep under the McDonald Island gas storage field. The Lessee has been storing natural gas in this reservoir since 1962. Since the reservoir is underground, it is not expected to be impacted by sea level rise.

### **TRIBAL COORDINATION AND CONSULTATION:**

The Commission recognizes the unique burdens and equity challenges faced by Tribal communities. In addition to its 2016 Tribal Consultation Policy, which sets forth a framework for effective communication and consultation with tribal governments, the Commission's Environmental Justice Policy contains several

principles and commitments aimed at honoring the importance of ancestral homelands and the state's unique relationship with tribes and tribal communities. To ensure full opportunity for participation and information sharing, staff sent letters explaining the proposed lease renewal and amendment to the culturally and geographically affiliated Native American tribes identified by the Native American Heritage Commission. The Cultural Resources Department of the Wilton Rancheria responded on February 17 requesting a meeting to discuss the project. On April 6, 2022, the Commission's tribal liaison spoke with the Wilton Rancheria's Tribal Historic Preservation Officer who expressed concern about the potential for surface activities to disturb tribal cultural resources. Because the Commission's jurisdiction is limited to the underground storage field, the tribal liaison provided contact information for staff at the CPUC and CalGEM and encouraged the Wilton Rancheria representative to coordinate with those jurisdictional agencies.

### **ENVIRONMENTAL JUSTICE:**

Consistent with the Commission's Environmental Justice Policy, staff reviewed environmental justice data that indicated high pollution burdens to the surrounding communities. These burdens may result in health impacts such as asthma, cardiovascular disease, and low birth rate. In addition, the same data showed high burdens related to groundwater threats, impaired waters, and hazardous waste. Furthermore, the data revealed that the neighboring communities are disadvantaged. As part of an environmental justice outreach and engagement effort, staff sent letters to environmental justice organizations in San Joaquin County, providing notification of the proposed lease and requesting input. The letters included a brief description of the lease renewal and amendment and conveyed a desire to learn from the perspectives of the local community. Commission staff sent follow-up emails to the environmental justice organizations; however, staff did not receive any feedback from the organizations it reached out to.

### **CONCLUSION:**

For all the reasons stated above, staff finds the proposed renewal and amendment of the gas storage lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

## **OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of a lease, the lessee also has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with paragraphs 1a, 1b, and 3a of the "Meeting Evolving Public Trust Needs" as well as the "Prioritizing Social, Economic, and Environmental Justice" and "Partnering with Sovereign Tribal Governments and Communities" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, Section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

## **EXHIBITS:**

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- A. Land description and the Plat (Page 2) of subject waterway and surrounding parcels and ownership
- B. Location Map
- C. Gas Storage Lease Amendment

## **RECOMMENDED ACTION:**

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It is recommended that the Commission:

### **CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

**PUBLIC TRUST AND STATE'S BEST INTERESTS:**

Find that the proposed renewal and amendment of the gas storage lease will not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

**AUTHORIZATION:**

Authorize the renewal and amendment of Lease No. 2839, a gas storage lease, for a term of 15 years, beginning March 1, 2022, through February 28, 2037, with the right to renew for one additional successive 15-year term, a right to renew for a period of 4 years after any termination for the sole and limited purpose of gas withdrawal, a bond increase from \$50,000 to \$780,000, a bond assessment review every 5 years, and a \$5,000 annual lease management fee, to be increased each year by 3 percent, as more particularly set forth in Exhibit C, attached hereto; all other terms and conditions of the lease will remain in full force and effect without amendment.

**EXHIBIT A**

**LEASE 2839**

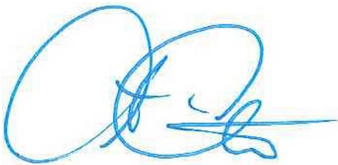
**LAND DESCRIPTION**

All those tide and submerged lands whether filled or unfilled in the historic bed of Whiskey Slough situate in the Southwest Quarter (SW  $\frac{1}{4}$ ) and Southeast Quarter (SE  $\frac{1}{4}$ ) of Section 24; the Northwest Quarter (NW  $\frac{1}{4}$ ), Northeast Quarter (NE  $\frac{1}{4}$ ) and Southeast Quarter (SE  $\frac{1}{4}$ ) of Section 25; and the Northeast Quarter (NE  $\frac{1}{4}$ ) of Section 36, Township 2 North, Range 4 East, Mount Diablo Meridian and the Northwest Quarter (NW  $\frac{1}{4}$ ) and Southwest Quarter (SW  $\frac{1}{4}$ ) of Section 30 and Section 31, Township 2 North, Range 5 East, Mount Diablo Meridian, County of San Joaquin, State of California.

The approximate location of the historic bed of Whiskey Slough shown on drawing number SL-1749 attached hereto and made part hereof.

**EXCEPTING THEREFROM** any portion lying landward of the Ordinary High Water Mark of said Whiskey Slough.

**END OF DESCRIPTION**



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Curt C. Castro, PLS 8714



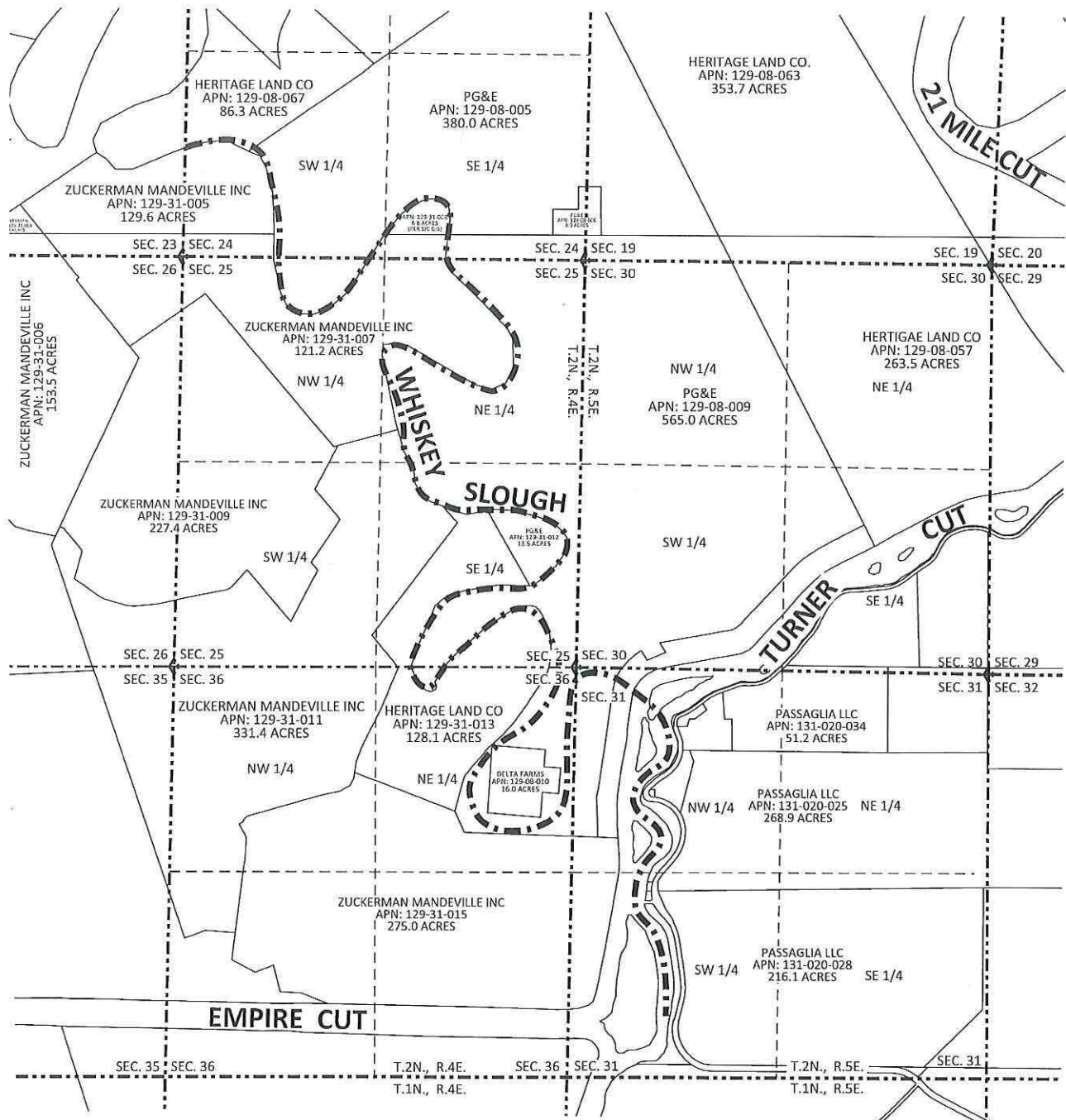


# LEGEND

- ASSESSOR PARCEL LINES
- CENTER OF WHISKEY SLOUGH
- SECTION LINES
- SECTION ALIQUOT PART



THIS PLAT IS FOR GENERAL REFERENCE ONLY: SEE ACCOMPANYING LAND DESCRIPTION FOR CONTROLLING BOUNDARY INFORMATION

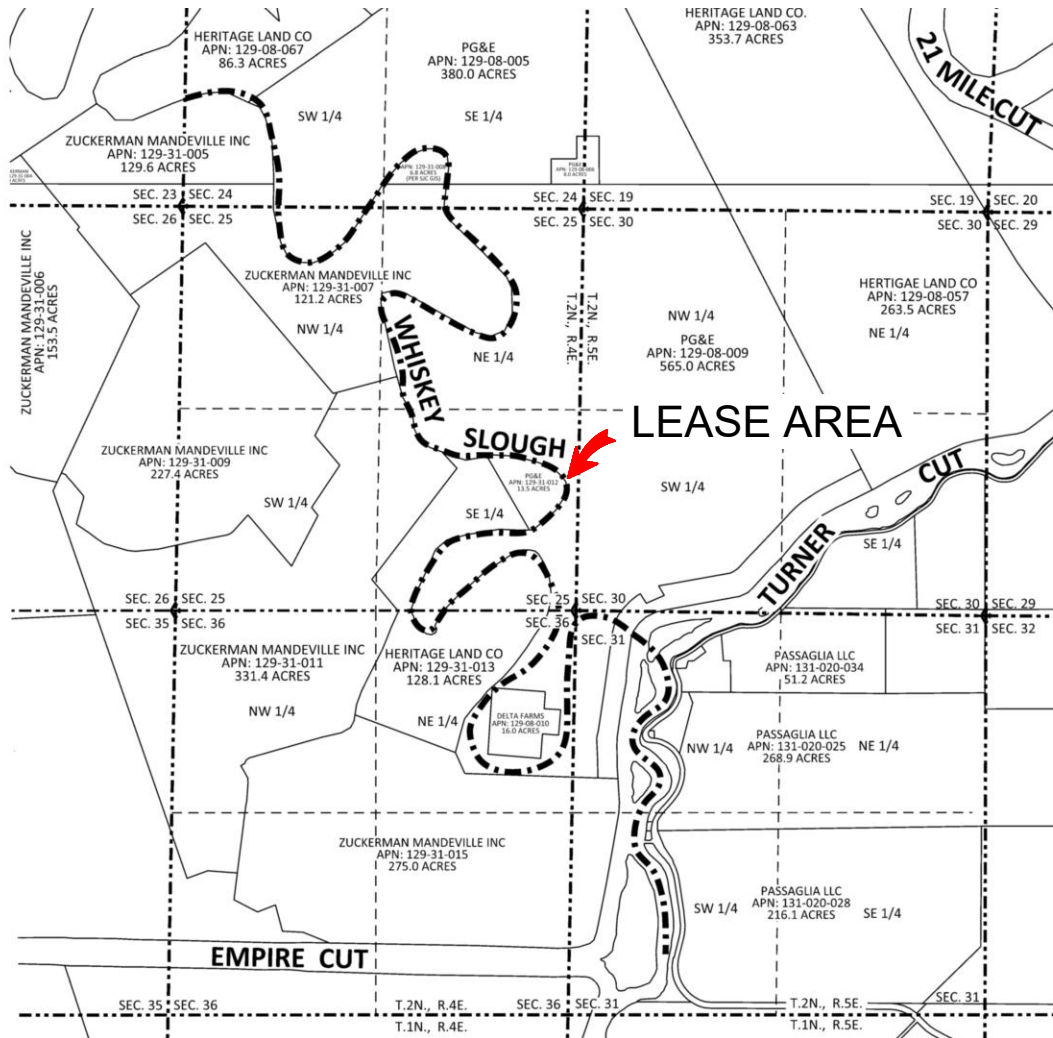


<p>AUTHORIZATION 2052091</p> <p>BY N/A</p> <p>DR CXOQ</p> <p>CH C4CK</p> <p>O.K. C4CK</p> <p>DATE 03/07/2022</p>	<p>PLAT TO ACCOMPANY LEGAL DESCRIPTION</p> <p>MCDONALD ISLAND GAS STORAGE</p> <p>STATE LANDS LEASE</p> <p>MCDONALD ISLAND, CALIFORNIA</p> <p>PACIFIC GAS AND ELECTRIC COMPANY</p> <p>San Francisco California</p>	<p>PROJ. NO. 2052091</p> <p>AREA 5, NORTH VALLEY</p> <p>COUNTY SAN JOAQUIN</p> <p>SCALE NOT TO SCALE</p> <p>SHEET NO. 1 OF 1</p> <p>DRAWING NUMBER SL-1749</p> <p>CHANGE 0</p>
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NO SCALE

## SITE



## MCDONALD ISLAND GAS STORAGE, WHISKEY SLOUGH

NO SCALE

## LOCATION



THIS EXHIBIT IS SOLELY FOR PURPOSES OF GENERALLY DEFINING THE LEASE PREMISES, IS BASED ON UNVERIFIED INFORMATION PROVIDED BY THE LESSEE OR OTHER PARTIES AND IS NOT INTENDED TO BE, NOR SHALL IT BE CONSTRUED AS, A WAIVER OR LIMITATION OF ANY STATE INTEREST IN THE SUBJECT OR ANY OTHER PROPERTY.

## EXHIBIT B

LEASE 2839  
PACIFIC GAS & ELECTRIC  
MULTIPLE APN  
GENERAL LEASE -  
OIL AND GAS LEASE  
SAN JOAQUIN COUNTY



JAK 3/11/2022

## **EXHIBIT C**

**LEASE NO. 2839**

### **RENEWAL AND AMENDMENT OF GAS STORAGE LEASE NO. 2839, MCDONALD ISLAND GAS FIELD, SAN JOAQUIN COUNTY, CALIFORNIA**

This renewal and amendment is entered into by and between the State of California, through the California State Lands Commission as Lessor ("State"), and Pacific Gas and Electric Company, a corporation organized and existing under the laws of the State of California, as Lessee (the "Company").

#### **RECITALS**

WHEREAS, on January 29, 2009, the State and the Company entered into the Replacement Lease for Gas Storage Lease PRC 2839.1 (the "Lease"); and

WHEREAS, the Lease requires that the Company furnish to the State and throughout the term of the Lease maintain a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00) in favor of the State guaranteeing faithful performance by the Company of the terms, covenants, and conditions of the Lease (Lease, Paragraph 8); and

WHEREAS, the term of the Lease was 15 years, from 7:00 a.m. on March 1, 2007, until 7:00 a.m. on March 1, 2022 (Lease, Paragraph 13); and

WHEREAS, the Lease provides that the Company shall have the right to renew the Lease for two (2) successive terms of 15 years each upon such reasonable terms and conditions as may be prescribed by the State, unless applicable law in effect at the time of the expiration of the Lease prevents such renewal (Lease, Paragraph 13); and

WHEREAS, if the Lease is terminated pursuant to the provisions of Paragraphs 4, 11, or 12 of the Lease, the Company shall have the right for a period of five (5) years after any such termination to withdraw from the Storage Reservoir all gas injected by the Company and all Native Gas (Lease, Paragraph 13); and

WHEREAS, the State's regulations limit the term for general leases and permits, including any optional renewal periods, to no longer than necessary to accomplish the intended use or purpose, and not to exceed 49 years (Cal. Code Regs., tit. 2, § 2004); and

WHEREAS, the Lease sets forth the address of each party for the purpose of service of notices provided under the Lease, until changed by either party by written notice to the other (Lease, Paragraph 15); and

WHEREAS, the Company has elected to exercise its first right of renewal for a term of 15 years, commencing retroactively on March 1, 2022; and

WHEREAS, it is the desire of the State and the Company to renew and amend the Lease as follows.

### **AGREEMENT**

The Parties hereto agree as follows:

1. The Lease shall be renewed for a period of 15 years, from March 1, 2022, until February 28, 2037.
2. The bond required in Paragraph 8 of the Lease shall be increased from \$50,000.00 to \$780,000.00 to more accurately reflect the cost to plug and abandon the wells subject to the Lease.
3. Paragraph 8 of the Lease shall further be amended to add the following language at the end of the paragraph:

Every 5 years the Commission staff may review the sufficiency of and amend the bond to ensure performance by the Company of all covenants and obligations under the Lease including abandonment obligations.

4. Paragraph 13 of the Lease is deleted in its entirety and replaced with the following new Paragraph 13:

This Lease, originally commencing at 7:00 a.m. on March 1, 2007, and continuing in effect for a term of 15 years until 7:00 a.m. on March 1, 2022, is renewed and extended for a period of 15 years, beginning March 1, 2022, and ending February 28, 2037, unless sooner terminated as provided in this Lease. The Company shall have the right to renew the Lease for one additional successive term of 15 years upon such reasonable terms and conditions as may be prescribed by the State, unless applicable law in effect at the time of the expiration of the Lease prevents such renewal. If this Lease is terminated pursuant to the provisions of Paragraph 4, 11 or 12 of this Lease, the Company shall have the right to renew the Lease for a period of 4 years after any such termination for the sole and limited purpose of withdrawal from the Storage Reservoir of all gas injected by the Company and all Native Gas (Gas Withdrawal Lease). Further injection shall not be permitted, and the Company shall continue to be responsible for payment to the State of the annual rental through the end of the Gas Withdrawal Lease period. While the Lease is in effect, including any extension or renewal of the Lease, the State shall not drill or produce or permit others to drill or produce any well for the production of gas within any zones and horizons of the McDonald Island Gas Field. The Company shall notify Commission staff of its intent to exercise any right of renewal under this Lease no less than 1 year prior to the expiration of the existing Lease period. If the Company fails to provide such timely notice, the right of renewal shall lapse and become void.

5. Paragraph 15 of the Lease shall be amended to reflect the updated address of the Commission for the purpose of service of notices provided under the Lease:

State Lands Commission  
301 E. Ocean Blvd., Suite 550  
Long Beach, CA 90802

6. The following shall be inserted as Paragraph 16 of the Lease:

The Company shall pay to the State an annual lease management fee in the amount of \$5,000 to compensate the State for staff time and resources used to manage and monitor the Company's performance of its obligations under the Lease. The annual management fee shall be due each year on the anniversary of the Lease and shall be increased each year by 3 percent of the previous year's management fee. The initial management fee, in the amount of \$5,000, shall be due within 30 days of the execution of this amendment.

7. All other terms and conditions of the Lease shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have executed this amendment as of the dates hereafter affixed.

LESSEE: PACIFIC GAS AND ELECTRIC  
COMPANY

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

By: \_\_\_\_\_

By: \_\_\_\_\_

Colin Connor

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Assistant Executive Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ACKNOWLEDGEMENT**

Execution of this document was  
authorized by the California State Lands  
Commission on April 26, 2022